

REMARKS

This application has been reviewed in light of the Office Action dated September 6, 2006. Claims 1-10 are presented for examination, of which Claims 1 and 8-10 are in independent form. Claim 2 has been amended as to a matter of form, only; no change in the scope of any claim element is either intended or believed to result from this change. Favorable reconsideration is respectfully requested.

In that Office Action, Claims 1, 4, 6 and 8-10 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,701,011 (*Nakajima*). In addition, Claims 2, 3 and 5 were rejected under 35 U.S.C. § 103(a) as being obvious from *Nakajima* in view of U.S. Patent Application Publication 2004-0001107 (Russon), and Claim 7, as being obvious from *Nakajima*. Applicants have carefully studied the Office Action and the prior art, and believe that the claims in their present form are allowable over that art, for at least the following reasons.

The purpose of the present invention has been discussed in previous papers, and it is not believed to be necessary to repeat that discussion. Applicant wishes to provide, however, the following example of color processing as an example of using the present invention. For the color adjustment to yellow, for example, by indicating an upper right position on map 301 representing the color space (see Fig. 3), a thumbnail image is moved to the indicated arbitrary position on the map, and thus moved thumbnail image is shown in yellow. Thus, it is possible using the present invention readily to make a

selection of a desired color on the map representing the color space, and to achieve an efficient execution of the color adjustment process.^{1/}

More specifically, independent Claim 1 is directed to an image processing method which performs a color process on an image by using a color processing parameter determined based on a position on a map representing a color space. That method comprises indicating an arbitrary position on the map representing the color space, and determining the color processing parameter by moving a thumbnail image displayed on the map representing the color space to the indicated arbitrary position on the map. Claim 1 further recites that the color process corresponding to the arbitrary position on the map representing the color space is reflected in the thumbnail image which was moved.

Applicants particularly note that in the method of Claim 1, the user must be able to indicate “an *arbitrary* position [emphasis added]” on a map representing a color space. Applicants believe that the Examiner has failed to give the word “arbitrary” its proper weight. As can be seen from the specification, the word is used herein to mean that the user is free to indicate whatever position on the map he or she thinks may correspond to the desired appearance of the image; the user of the present system is not constrained to indicate one of only a small number of locations on the map. (Applicants submit that this meaning of “arbitrary” not only is clear from the specification, but is also the ordinary meaning of the word. Attached merely by way of example is the first page of the results obtained from a Web search of “definition arbitrary”. While not all of those results are the

^{1/} It is of course to be understood that the claim scope is not limited by the details of this or any other particular embodiment that may be referred to.

same, and one or two appear to be specialized usages pertinent only to certain fields such as semiotics, the great majority are believed to conform exactly to Applicant's view.)

Nakajima relates to an apparatus in which a user is provided with a display that permits the user to see the effect of processing a particular image by means of enhancing its color in a particular way. In the example shown in Figs. 8 and 9, specifically cited in the Office Action, a grid 94 is shown, representing in two dimensions a range of colors, and above it, the present image 96. Also shown is an array 91 of nine thumbnails of the image. Initially, the central thumbnail is identical in coloration to the original image 96, and the other eight thumbnails differ from the original in each having its coloration enhanced in a different way. For example, those eight thumbnails may shown the central thumbnail with its color modified in the direction, respectively, of red, yellow, yellow-green, green, light blue, blue, purple and pink (col. 6, lines 60-64). As is clearly explained in *Nakajima*:

“Compared with the current image 92, an image 93 is enhanced in green color. When the user wants an image enhanced in green, for example, the user enters a command through the input device 5, a pointing device such as a mouse, and the setting section 15 to press the image 93. Upon pressing the image 93, the image 93 becomes a current image, and is shifted to the center position designated reference numeral 92. When the current image 92 is updated in this way, the surrounding [sic] eight images are enhanced in eight colors with respect to the center current image 92. These steps are repeated until the current image 92 agrees with the desired color. An indicator 94 indicates an area of adjustment, within which the thumbnail 91 is adjustable, and is hereinafter referred to as a general map 94. A cursor 95 in the general map 94 indicates its corresponding position in the thumbnail 91. More particularly, nine points of the cursor 95 correspond to the nine images in the thumbnail 91. Each time adjustment is made in the thumbnail 91 as described above, the cursor 95 moves on the general map 94. When the cursor 95 reaches the edge of the general map 94, the thumbnail 91 cannot be adjusted further in that direction.

An address window 99 indicates current position information in the general map 94. In this embodiment, each of x and y ranges from -10 to 0 to +10, and central values 0, 0 mean an unadjusted state. An adjustment range setter 98 adjusts a range of adjustment, which defines the range between the current position and the edge of the general map 94.” *Nakajima*, col. 6, line 66, through col. 7, line 26.

In the *Nakajima* system, thus, the user is able to adjust the color in any of eight set directions, but only by a predetermined amount at one time. If a larger change is desired, it is necessary for the user to repeat the adjustment procedure. Applicants do not agree with the Examiner that the *Nakajima* system permits the user to indicate “an arbitrary location on the map representing the color space”, as recited in Claim 1. On the contrary, the user of the *Nakajima* system is constrained to select just one of eight locations on that map, identified respectively by the peripheral eight thumbnails in array 91. If one considers such selection to be a movement of one of those thumbnails to the central position, as the Examiner apparently does, then it seems even less possible to term this an indication of an “arbitrary” location, since there is only one central location in array 91 -- that is, the user has no choice at all.

For these reasons, Applicants strongly believe that *Nakajima* does not teach or suggest “indicating an arbitrary position” on a map representing a color space, as recited in Claim 1, and therefore conclude that that claim is allowable over *Nakajima*.

Independent Claims 8-10 are apparatus, computer memory medium and program claims, respectively, corresponding to method Claim 1, and are believed to be patentable for at least the same reasons as discussed above in connection with Claim 1.

A review of the other art of record, including *Russon*, has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as a reference against the independent claims herein (even assuming for argument's sake that *Russon* could properly be used in combination with *Nakajima*; for the reasons set out in Applicants' previous Amendment, this point is not conceded). Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from independent Claim 1, and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

This Amendment After Final Action makes only a formal change to the language of one dependent claim, which does not affect the scope of coverage sought, or raise any new issues. Moreover, in view of the foregoing arguments, this application is believed to be in condition for allowance vis-à-vis of the prior art. Entry of this Amendment is therefore believed proper under 37 C.F.R. § 1.116. In any event, however, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, he is respectfully requested to contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and allowance of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Leonard P. Diana/

Leonard P. Diana
Attorney for Applicants
Registration No.

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

APPENDIX - LIST OF DEFINITIONS OF "ARBITRARY"

based on or subject to individual discretion or preference or sometimes impulse or caprice; "an arbitrary decision"; "the arbitrary rule of a dictator"; "an arbitrary penalty"; "of arbitrary size and shape"; "an arbitrary choice"; "arbitrary division of the group into halves"
wordnet.princeton.edu/perl/webwn

Uncertain; random; accidental; discretionary; outside of central relevance to the methodology, law or principle, therefore accepting of individual choice and subjectivity. (MP) ARBITRATION: The hearing and resolution of a dispute by a person or legal body (arbitrator) chosen by the disputing parties or appointed by government statute. (See MEDIATION, NEGOTIATION, FACILITATION, DISPUTE) (MP)
www.biol.tsukuba.ac.jp/~macer/biodict.htm

Defining the relationship in semiotics of the signifier and the signified. The indeterminate meaning of a given sound-image points to critical importance of recognizing the conventions of the sign-system(s) at work in a text.
www2.cumberlandcollege.edu/acad/english/litcritweb/glossary.htm

signs where the relation between signifier and signified is purely conventional and culturally specific, eg, most words.
www.uvm.edu/~tstreete/semiotics_and_ads/terminology.html

Here, the fact that the features of human languages bear no direct relation to their meanings but are agreed-on symbols.
highered.mcgraw-hill.com/sites/0072549238/student_view0/glossary.html

seemingly random or without reason or system. Dependent on a whim.
www.angliacampus.com/public/sec/geog/gn009/glossary.htm

A charge on the ECNA trade levied for cargo destined to a 'non-main call port'.
ARBITRATION
www.gesisny.net/Yachts/MaritimeTerms.html

1) A datum or action based on opinion, judgment, whim, personal interests, or taste; not on law or fact. (Latin: Judgment). 2) Unreliable, false or twisted data. This is why you backtrack difficulties in the Study Technology. When you accept an arbitrary in place of a fact or certainty you soon have confusion after confusion. This is why handling MUs, skipped gradients, and False Data is so important. They introduce arbitrariness that need to be found and handled.
www.geocities.com/clearbirds/study/glosstudy.htm